

Date: October 13, 2017

Memorandum



To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Gimenez", written over the name of the Mayor.

Subject: Report On Miami-Dade Police Department's Immigration and Immigrant Communities
Procedures - Directive 170727

The attached substitute policy serves as an update to the original policy from June 28, 2017.

The following information is submitted in compliance with No. R-381-17, adopted by the Board of County Commissioners (Board) on April 4, 2017, requesting a report identifying practices and procedures of the Miami-Dade Police Department (MDPD) that relate to immigration and immigrant communities, and providing recommendations to ensure that MDPD officers are not performing federal immigration duties.

To guarantee our continuing commitment to the safety and security of the general public, MDPD reviewed its practices and procedures and recently implemented a new policy to guide and direct officers with regard to immigration and immigrant communities. Since implementing the policy, the Department received additional input from organizations and concerned individuals around the County, and consequently drafted revisions to MDPD's Departmental Manual *Chapter 21 - Part 4 - Undocumented Persons*. The revisions to the policy preserve the separation of duties between MDPD officers and federal immigration officers, and confirm that MDPD officers are not performing federal immigration duties.

In addition, **the revised policy is in full compliance with Title 8, Section 1373 of the United States Code**. Neither this policy nor any of MDPD's policies prohibit or restrict the sending, receiving, maintaining, or exchanging of information regarding the citizenship or immigration status of individuals with any governmental entities.

Furthermore, MDPD will notify the Board if Miami-Dade County is asked to enter into any agreement with the federal government pursuant to Section 287(g) of the Immigration and Nationality Act.

Should you require additional information, please contact Director Juan J. Perez, Miami-Dade Police Department, at 305-471-3272.

Per ordinance 14-65, this report shall be placed on the next available Board of County Commissioner's meeting agenda.

Attachment

1. *Revisions to Departmental Manual, Chapter 21 - Part 4 – Undocumented Persons*

c: Abigail Price-Williams, County Attorney
Geri Bonzon-Keenan, First Assistant County Attorney
Maurice L. Kemp, Deputy Mayor, Office of the Mayor
Juan J. Perez, Director, Miami-Dade Police Department
Cathy Jackson, Acting Commission Auditor
Christopher Agrippa, Clerk of the Board
Eugene Love, Agenda Coordinator

Memorandum



Date: October 11, 2017

To: Distribution D

From: Juan J. Perez, Director
Miami-Dade Police Department

Subject: Revision to the Departmental Manual
CHAPTER 21 - PART 4 - UNDOCUMENTED PERSONS

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Effective immediately, the following revisions are made to the Miami-Dade Police Department, Departmental Manual, **CHAPTER 21 - PART 4 - UNDOCUMENTED PERSONS**:

I. OBJECTIVES:

The Miami-Dade Police Department (MDPD) recognizes its responsibility to protect and serve all Miami-Dade County residents and visitors, and to provide fair and responsive police services to our large and diverse community. Residents and visitors should feel confident that MDPD will discharge its duties without regard to a person's legal status. Confidence in and cooperation between our police officers and immigrant victims and witnesses is necessary to prevent and solve crimes and to maintain safety and public order in the community.

II. POLICY:

MDPD personnel are reminded that the enforcement of immigration laws is the responsibility of the federal government and those specific federal agencies such as Immigration and Customs Enforcement (ICE) which are delegated such authority. The MDPD will not perform as an immigration enforcement agency. The simple act of being in the United States illegally (undocumented status) is a civil violation of federal immigration law and is not a crime. MDPD personnel will adhere to this policy regarding undocumented persons.

III. POLICE ENFORCEMENT REGARDING UNDOCUMENTED PERSONS:

A. Arrests of Undocumented Persons:

1. Except for persons with consular immunity, all persons are subject to arrest for violation of state criminal laws and Miami-Dade County ordinances regardless of the immigration status of the violator.
2. MDPD officers shall effect the arrest of any person for whom a validated federal arrest warrant exists.
3. MDPD officers should not arrest or detain an individual based solely on an Immigration Detainer ~~civil detainer order or an "administrative warrant"~~ which has been issued by ICE agents or other designated immigration officers. However, if the individual is already under arrest on other charges, officers will document the existence of the Immigration Detainer on the Arrest Form, ~~notify immigration authorities and jail personnel of the existence of a civil detainer order/administrative warrant.~~ The officer shall document the federal agency and agent contacted in the police report.
4. MDPD officers shall not effect an arrest of an undocumented person for unlawful entry into the country (Title 8 U.S.C. Section 1325, *Improper entry by alien*). See Section B. 3., *Detention of Undocumented Persons*, below.

B. Detention of Undocumented Persons:

1. During routine traffic or investigatory detentions, officers shall not question individuals about their immigration status, ~~unless clearly related to the purpose of the stop, such as a stop to investigate human trafficking under Florida Statutes §787.06.~~
2. If, during a routine traffic or investigatory detention, officers become aware of an individual's undocumented status, officers may shall contact federal immigration authorities to notify them of the detention, but shall only hold the individual for the time it takes to complete the lawful scope and purpose of the original stop. At the conclusion of the traffic or investigatory detention, the individual shall be released. Officers shall note the federal agency and agent notified in a police report.
3. Officers shall conduct investigatory detentions of individuals when there is reasonable suspicion to believe that a criminal immigration violation of Title 8 U.S.C. Section 1325, *Improper entry by alien*, has occurred. For example, an officer who witnesses individuals appearing to enter the United States, at any time or place other than as designated by the proper authorities, may detain such individuals for a reasonable amount of time in order for immigration officials to arrive on the scene and take over the investigation.

IV. COMMUNITY RELATIONS AND ASSISTANCE:

The MDPD works hard to build trust and a spirit of cooperation with the community it serves, to include its immigrant population, through community based policing and community outreach programs. Assistance and cooperation from immigrant communities is especially important when an immigrant, whether documented or undocumented, is the victim of, or witness to, a crime. These individuals must be encouraged to file reports and come forward with information. Their cooperation is needed to prevent and solve crimes, and maintain order and safety in the community. In addition, positive police relations in our diverse and unique community assists police intelligence gathering efforts which may prevent acts of terror and strengthen homeland security.

A. Undocumented Victims and Witnesses:

Victims and witnesses of crimes shall not be questioned about their immigration status unless this information is clearly relevant to the criminal investigation.

B. Inquiries:

Officers having immigration related questions in the field should contact the Homeland Security Bureau for consultation or the Police Legal Bureau for legal guidance prior to taking enforcement action involving undocumented persons.

C. Complaints:

The MDPD shall accept complaints from all persons regardless of their immigration status and shall process such in accordance with Chapter 15 - Part 4 - Complaint, Counseling, and Discipline.

The Professional Compliance Bureau will make the appropriate revisions to the Departmental Manual.

JJP/cw